

REMARKS

Claims 1-12 were examined in the Office Action mailed March 24, 2005.

The Applicants wish to express their appreciation for the Examiner's indication that claims 6-10 contain patentable subject matter. The Applicants have placed these claims into allowable form.

Pending Rejections Under § 102(b): Claims 1-5 and 11-12 stand rejected as anticipated by U.S. Patent No. 5,212,023 to Diethelm ("Diethelm").

The Applicants have canceled claims 1-4, without prejudice to the subject matter therein, and incorporated the limitations of claims 1 and 2 into claim 5. In addition, claim 5 has been amended to recite that the recited the end or intermediate plate "is composed of at least two substantially identical or mirror-image partial elements," a feature not disclosed or suggested in Diethelm. Finally, claim 11 has been amended to depend from claim 5, and independent method claim 12 has been amended to incorporate the identical or mirror-image partial elements of claim 5.

In view of the foregoing amendments, the Applicants respectfully traverse the pending rejection based on Diethelm on the grounds that this reference fails to disclose or suggest all the features of amended claims 5, 11 and 12.

As shown in Diethelm Fig. 5, the sole illustration of a complete cross-section of the Diethelm separator ("temperature equalizing members 31"), this reference discloses only a solid, asymmetric, one-piece separator. In particular, due to the substantial difference in the Diethelm cathode and anode gas inlet and exhaust arrangements, even if somehow separated into two or more partial

elements, the Diethelm separator elements would not be “substantially identical or mirror-image” to one another. Moreover, there is no disclosure or suggestion in Diethelm of obtaining the present claims’ recited flow pattern with such partial elements. Nor would it be a matter of mere substitution of a multipart element for Diethelm’s one piece separator to obtain the present invention’s incorporation of a heat exchanger between the fuel cell electrodes, as it would not have been obvious to create, for example, the four different flow patterns of the gasses shown in present Fig. 1 by merely splitting the Diethelm separator into sections.

Because the Diethelm reference fails to disclose or suggest all of the features of claims 5, 11 and 12, these claims are patentable over this reference under § 102(b). Reconsideration and withdrawal of the § 102(b) rejection of these claims is respectfully requested.

CONCLUSION

The Applicants respectfully submit that claims 5-12 are in condition for allowance. Early and favorable consideration, and issuance of a Notice of Allowance for these claims is respectfully requested.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit

Account No. 05-1323 (Docket #080437.52615US).

July 29, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.D. Sanok", written over a horizontal line.

Jeffrey D. Sanok
Registration No. 32,169
Mark H. Neblett
Registration No. 42,028

CROWELL & MORING, LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844